

AFFIDAVIT

I, Blake Thilkey, being duly sworn, state as follows:

1. I am a Border Patrol Agent with the United States Department of Homeland Security, United States Border Patrol. I have been with the Border Patrol for more than 14 years. I am currently assigned to the Beecher Falls Station in Canaan, Vermont.

2. This affidavit is offered to demonstrate that probable cause exists to believe that Harvey HERNANDEZ-HERNANDEZ, an alien of Mexican citizenship, was found in the United States after having been previously removed from the United States, and not having obtained the consent of the Secretary of Homeland Security of the United States to reapply for admission into the United States, in violation of 8 U.S.C. § 1326(a).

3. The information contained in this affidavit is based on my training and experience, as well as my own investigation and information I received from other agents. This affidavit is intended to show that there is sufficient probable cause to believe that HERNANDEZ-HERNANDEZ committed the foregoing offense and does not set forth all facts I know from my investigation into this matter.

4. On October 9th, 2023, at approximately 0231 Border Patrol Agents (BPAs) of the Beecher Falls Border Patrol Station were notified by Swanton Sector Radio Dispatch, regarding a vehicle on the Gagnon Road in Norton, Vermont. BPAs responded to the area on Gagne Road to find a vehicle bearing license plate NY HHS3080 with one subject sitting in the driver's seat. An Agent pulled up next to the vehicle and approached the passenger side of the vehicle and the subject rolled down the window at this time. The BPA announced to the subject he was a Border Patrol Agent and asked the subject what he was doing in the area. The subject said he was trying

to meet his friend and his GPS sent him down this road. Gagne Road is not a public way and not normally traveled by anyone other than property owners who, aside from Border Patrol, are the only citizens with keyed access to the gates within the property. At this time the Agent asked for the subject's ID and the subject presented him with a NY Driver's license bearing the name of Harvey HERNANDEZ-HERNANDEZ. The Agent then performed an immigration inspection on HERNANDEZ-HERNANDEZ. HERNANDEZ-HERNANDEZ stated he is a citizen of Mexico and did not have legal status in the United States. At this time, HERNANDEZ-HERNANDEZ was placed under arrest and escorted into the back of the BPA's vehicle.

5. Due to the high volume of illegal entries and events in the Gagne Road area, the abnormal time of day for any vehicle traffic on the road, and HERNANDEZ-HERNANDEZ's lack of legal status, and his unlikely claim that he was meeting a friend, BPAs suspected that a smuggling event was imminent. The Agent traveled Eastbound back to the end of the Gagne Road near VT Route 114, waiting for another Agent to arrive on scene. After another Agent arrived on scene, the BPAs traveled together westbound on Gagne Road back to the NY-plated vehicle HERNANDEZ-HERNANDEZ had been driving. As the BPAs were approaching the vehicle, they noticed several subjects with backpacks attempting to enter the vehicle. BPAs activated the emergency lights and the subjects started to run north towards the brush area. Agents then exited the vehicle and announced they were U.S. Border Patrol. Agents then apprehended seven subjects next to the NY-plated vehicle. At this time BPAs asked each individual if they were here in the United States illegally and if they had any documentation to be in and or remain in the United States. All seven subjects acknowledged they entered and were in the United States illegally. All eight subjects, including HERNANDEZ-HERNANDEZ, were

transported back to the Beecher Falls Border Patrol Station in Canaan, Vermont for processing.

6. At the station, HERNANDEZ-HERNANDEZ's fingerprints were scanned electronically and submitted to the Integrated Automated Fingerprint Identification System (IAFIS) and Automated Biometric Identification System (IDENT) databases. These are biometric databases that contain criminal and immigration records. Results from these submissions confirmed the identity of the subject as HERNANDEZ-HERNANDEZ.

7. The records check revealed HERNANDEZ-HERNANDEZ was encountered illegally crossing the United States border from Mexico on October 31, 2011 in the District of Arizona. HERNANDEZ-HERNANDEZ was processed for Expedited Removal and issued a Final Order of Removal on November 1, 2011. He was removed on November 2, 2011.

8. Records checks through Department of Homeland Security databases do not show that HERNANDEZ-HERNANDEZ obtained permission from the Secretary of Homeland Security to reapply for admission to the United States.

9. Based on the foregoing, I believe there is probable cause to believe that HERNANDEZ-HERNANDEZ was found in the United States after having previously been removed from the United States, without having obtained the permission of the Secretary of Homeland Security to re-apply for admission into the United States, in violation of 8 U.S.C. § 1326(a).

Dated in the District of Vermont on this 10th day of October 2023.

*Attested to by reliable electronic means*

Blake Thilkey

BORDER PATROL AGENT

DEPARTMENT OF HOMELAND SECURITY

Sworn to by the applicant via reliable electronic means under Federal Rule of Criminal

Procedure 4.1(b)(2)(A)—specifically, a video call—on this 10<sup>th</sup> day of October, 2023.

*Kevin J. Doyle*  
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HONORABLE KEVIN J. DOYLE  
UNITED STATES MAGISTRATE JUDGE